

SANTIAGO BALMONTE, PLAINTIFF-APPELLEE, VS. JULIAN MARCELO AND ALEJANDRO MARCELO, DEFENDANTS-APPELLANTS.*G.R. No. L-22240. November 27, 1968*

Ponente: REYES, J.B.L., J.

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Appeal on points of law from a decision of the Court of First Instance of Isabela, in its Civil Case No. 637, for “reivindicacion”.

Appellee Santiago Balmonte applied in 1937 for a homestead patent covering Lot 2808 of the Santiago (Isabela) B. L. Cadastre-211. In 1947, defendant-appellant Alejandro Marcelo filed another homestead application for the same lot. In view of the conflict, the District Land Officer of Isabela held an investigation in which Marcelo did not appear, despite notices served on him. As a result, the Marcelo claims and homestead application were dismissed in 1948, and Balmonte was issued first a patent on 28 May 1949, and, on 10 June 1949, Original Certificate of Title No. P-692. Marcelo protested the issuance of Balmonte's patent, and the Director of Lands, on 27 August 1949, directed the Isabela District Land Officer to investigate.

On 7 November 1953, before completion of the Land Officer's investigation, Balmonte filed the present case in the Court of First Instance of Isabela, to recover possession of his land and damages from Alejandro Marcelo and the latter's father, Juan Marcelo, averring that the latter had illegally entered in 1950 during plaintiff's temporary absence, and thereafter refused to surrender the lot. The answer of the Marcelos contested the jurisdiction of the court in view of the pendency of the administrative investigation; denied Balmonte's prior possession and cultivation, and the validity of his patent and certificate of title; and counterclaimed for damages.

On 15 September 1955, the Director of Lands decided the administrative dispute, finding the occupation of the Marcelos to have been in bad faith, and holding them to be in estoppel for failure to appeal the result of the 1948 investigation. Believing that the decision of the Director was final, the Court of First Instance granted Balmonte's motion for summary judgment, and, on 17 July 1956, rendered a decision, declaring Balmonte to be the absolute owner of the land, and ordering the Marcelos to surrender possession and to vacate. By a supplemental decision in 1957, the defendants were sentenced to pay P4,200.00 damages, plus P700.00 per agricultural year, from 1957 to the actual surrender of the property litigated.

Upon appeal by the Marcelos, this Supreme Court, on 25 April 1961, set aside the decision on the ground that the decision of the Director of Lands was not yet final, as it was seasonably appealed to the Secretary of Agriculture and Natural Resources; and remanded the case back to the Court of First Instance for further proceedings and reception of proof of the decision on appeal of the Department of Agriculture (Balmonte vs. Marcelo, 1 Supreme Court Reports Annotated, 1028).

On 18 May 1961, the Secretary of Agriculture dismissed the appeal interpose by the Marcelos against the decision of the Director of Lands. Not content, Alejandro Marcelo appealed once more to the President of the Philippines, who, on 4 June 1962, through the Assistant Executive Secretary, affirmed the decision of the Secretary of

Agriculture (Supplemental Record on Appeal, pages 23-27).

The court a quo then set the case for rehearing. On the date fixed, counsel for defendants Marcelo orally moved for continuance to enable him to file an amended answer to plead lack of clue process, because, allegedly, the Marcelos were not really notified of the 1948 investigation. The postponement was denied, and the hearing proceeded. Thereafter, the case was submitted for decision, which was rendered on 30 July 1962, reaffirming and reinstating the original 1956 judgment. Defendants mailed a motion for reconsideration that was received by the court the next day after the decision; and on 6 August 1962 they submitted a supplemental motion for reconsideration, attaching thereto a purported amended answer, that they prayed to be admitted, averring that Alejandro Marcelo, in fact, did not receive notice of the hearing of the 1948 investigation, nor of the order of the investigator dismissing his claim to the land; but that, through fraud, said Marcelo was made to admit he had received copy of the order; that despite the 1949 directive of the Director of Lands no reinvestigation was actually made in 1949, and that the reports made by the Lands investigator was a fabrication and/or falsification, yet the Director of Lands in 1955 dismissed the claims of Marcelo with clear and grave abuse of discretion. The Court of First Instance, on 8 September 1962 (Record on Appeal, pages 115-121), denied reconsideration on the ground that the proposed new allegations set up facts already existing when the defendants filed their original answer on 1 December 1953, and, not having been so pleaded then, should be deemed waived. The court further granted, upon bond, Balmonte's motion for execution pending appeal, predicated upon the alleged insolvency of the defendants. Defendants appealed once more to this Court.

The only error assigned here is the court's refusal to allow the defendants-appellants to amend their answer to plead lack of notice and fraud.

We fail to see any reversible error in the actuations of the court below. It is well to observe that there is no cogent reason shown why the alleged lack of notice of the hearing of the 1949 investigation was not pleaded in the original answer of 1953, or, in fact, why it was not called to the attention of the Director of Lands even before he issued his decision of 15 September 1955 dismissing the protest of Marcelo against the issuance of a homestead patent to Balmonte in 1949.

Appellants claim that they did raise the issue in their appeal to the Secretary of Agriculture and later to the President. If they did so, then the issue, which is on of fact, was decided adversely against appellants herein, for the decision of the Executive Secretary, issued by authority of the President, expressly recites as follows:

"The record discloses that Marcelo had an opportunity to be heard and present his evidence in the investigation conducted in 1948 by Public Lands Inspector T. Cruz. Despite notices sent to him, he failed to appear and testify, for which reason the investigation was conducted ex-parte. Balmonte and his witness sufficiently proved in this investigation that he was the prior entryman under Homestead Application No. 21956 of the disputed tract and that his occupation was temporarily interrupted by the war and, after liberation, by the lack of work animals.

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"A scrutiny of the record has failed to disclose the existence of any fraud or irregularity in the issuance of patent to Balmonte. It is true that the District Land Office erroneously processed Marcelo's application. This cannot prejudice, however, Balmonte's prior application and entry made before the war, which entry has not been previously cancelled or revoked, and which entitled him to the exclusive possession of the land."

The questions of notice, collusion and fraud being issues of fact, the findings thereon by the competent executive officials are conclusive upon the courts and not subject to judicial review in the absence of showing that the decision was rendered as a result of fraud, imposition or mistake, other than error of judgment, in estimating the

value of evidence. This is a well established and reiterated doctrine (Ortua vs. Singson, 59 Phil. 440; De Guzman vs. De Guzman, 104 Phil. 24; Julian vs. Apostol, 52 Phil. 422; Alfafars vs. Mapa, 95 Phil. 125).

There is no pretense here that the decision of the Secretary of Agriculture, or that of the President (independently of that of the Director of Lands), were in any way tainted by abuse of discretion, fraud or imposition. They should end a controversy that has dragged for twenty years.

WHEREFORE, the decision under appeal is affirmed. Costs against appellants Alejandro and Julian Marcelo.

Concepcion, C.J., Dizon, Makalintal, Zaldivar, Sanchez, Castro, Fernando, and Capistrano, JJ., concur.

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